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In re Application of
GRUITROIJ et al.
U.S. Application No. 09/936,632
PCT No.: PCT/NL00/00163
Int. Filing Date: 10 March 2000
Priority Date: 11 March 1999
Attorney Docket No.: 30394-1057

For: APPARATUS FOR THE INTERNAL
INSPECTION OF PIPES AND TUBES
AND THE LIKE

DECISION ON REQUEST

This decision is in response to applicants' "Petition under 37 CFR 1.497(d) to Correct Inventorship" filed 21 February 2002. Applicant's Deposit Account No. 13-4213 has been charged a \$130 petition fee under 37 CFR 1.17(h).

BACKGROUND

On 10 March 2000, applicants filed international application No. PCT/NL00/00163 which claimed a priority date of 11 March 1999 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 September 2000. The international application named Leonardus Johannes Gruitroij, Christiaan Willem Schomper, and Jurgen Francois Elbertse as applicants/inventors. A Demand for international preliminary examination was filed prior to 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee expired at midnight on 11 September 2001.

On 12 September 2001, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia*: the requisite basic national fee; a copy of the international application; and an unexecuted declaration.

On 07 November 2001, the United States Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 21 February 2002, applicants filed the present petition, an executed declaration and power of attorney, and a petition for a two-month extension of time.

DISCUSSION

In the instant case, the international application named Leonardus Johannes Gruitroij, Christiaan Willem Schomper, and Jurgen Francois Elbertse as applicants/inventors. Applicants request to delete Jurgen Francois Elbertse as an applicant/inventor and add Sieman Roelof van der Heide and Joost Martinus Parent as applicants/inventors. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires:

- (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;
- (2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a);
- (3) the fee set forth in 37 CFR 1.17(i); and
- (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Applicants have satisfied items (1), (2) and (3). Further, in order to satisfy item (4), applicants are required to submit a written consent of assignee to the correction in inventorship in compliance with 37 CFR 3.73(b), or written confirmation that no assignee exists. Here, the international application indicates A. Hak Industrial Services B.V as an applicant and it is unclear if the invention has been assigned to A. Hak Industrial Services B.V.

Applicant's Deposit Account No. 13-4213 has been charged a \$130 petition fee under 37 CFR 1.17(h).

CONCLUSION

For the reasons discussed above, applicants' request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a).

A proper response must include a written consent of assignee in compliance with 37 CFR 3.73(b).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

A handwritten signature in black ink, appearing to read 'Leonard Smith', with a stylized flourish at the end.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

A handwritten signature in black ink, appearing to read 'Anthony Smith', with a long horizontal flourish extending to the right.

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